

TOWN OF ABINGDON, VIRGINIA
REGULAR COUNCIL MEETING
MONDAY, NOVEMBER 7, 2005
7:30 P.M. – MUNICIPAL BUILDING

The regular meeting of the Abingdon Town Council was held on Monday, November 7, 2005 at 7:30 P.M. in the Council Chambers of the Municipal Building.

A. ROLL CALL

Members of Council present: Mayor Lois H. Humphreys
Dr. French H. Moore, Jr., Vice Mayor
Mr. Robert M. Howard
Mr. Thomas C. Phillips, Jr.
Mr. Edward B. Morgan

Comprising a quorum of the Council

Administrative Staff: G. M. Newman, Town Manager
Greg Kelly, Town Attorney
Mark Godbey, Finance Director
Monty Vernon, Public Works Director
Garrett Jackson, Planning Director
Chris Johnson, Parks & Recreation Director
Tony Sullivan, Police Chief
Joey Burke, Fire Chief
John McCormick, Assistant Fire Chief
Linda F. Wilson, Town Clerk

Visitors: Kenny Shuman, Stacy Allen McGee, Ken Russell, Rick Rose,
Jonathan Richardson of Abingdon Virginian, Carol Fields of
Washington County News, Samantha Sieber of Bristol Herald
Courier, and others

Mayor Humphreys announced that Mayor Alison Rooke of Abingdon England had recently visited the Town. She had noted several similarities between the two locations.

B. APPROVAL OF MINUTES

October 3, 2005 Regular Meeting & October 17, 2005 Work Session

Mr. Morgan made the motion to approve the minutes of the October 3, 2005 regular meeting, and the October 3, 2005 work session, as submitted. Mr. Howard seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mr. Phillips – Aye Mr. Howard – Aye
Dr. Moore – Aye Mayor Humphreys – Aye

The motion carried.

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C. PETITIONS AND PUBLIC HEARINGS

1. **PUBLIC HEARING** – Request for Certificate of Public Convenience & Necessity to Operate Two Taxicabs in 2006. (Jack Kiser, Abingdon Taxi Service)

Police Chief Tony Sullivan advised that pursuant to Town Code, Abingdon Taxi Service was investigated as standard procedure. Following the investigation, all items were found to be in order. Therefore, he recommended approval of the certificate as requested.

Dr. Moore made the motion to approve, on first reading, the request of Jack Kiser for a Certificate of Public Convenience & Necessity for Abingdon Taxi Service to operate two taxicabs in 2006. Mr. Phillips seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mr. Phillips – Aye Mr. Howard – Aye
 Dr. Moore – Aye Mayor Humphreys – Aye

The motion carried.

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E. REPORTS FROM THE TOWN MANAGER

1. Presentation – Historic District Study Committee. (Kenny Shuman)

Kenny Shuman spoke on behalf of the Historic District Study Committee. Mr. Shuman advised that the study was very positive, the members had worked well together, and agreed on two basic concepts: 1) All were committed to the preservation of structures located within the Old and Historic District, governed by the existing guidelines and recommendations of the Board of Architectural Review, and 2) there are certain uses which are not appropriate to structures within the Old and Historic District.

The Committee redrafted the current ordinance to address the following: 1) Conforming use of properties, from the date of adoption, going forward, 2) redefinition of certain conforming uses to update and clarify existing language, and 3) drafting of a vested interest clause to preserve the rights of owners whose property is currently being used for a purpose not recognized as a conforming use after the adoption of the proposed changes.

Mr. Shuman requested that the redrafted ordinance be referred to the Planning Commission for their review, and final recommendation to Council. Mr. Phillips suggested that the request also be referred to the Board of Architectural Review. Mr. Shuman agreed.

Mr. Morgan made the motion that the Historic District Study Committee makes a presentation of the redrafted ordinance to both the Planning Commission and Board of Architectural Review, for their review, and recommendation to Council. Mr. Phillips seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mr. Phillips – Aye Mr. Howard – Aye
 Dr. Moore – Aye Mayor Humphreys – Aye

The motion carried.

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2. Consideration – Recommendation of Firm for Comprehensive Plan Update. (Garrett Jackson, Planning Department)

Garrett Jackson, Planning Director, advised that a committee had interviewed two firms who had presented proposals for the Comprehensive Plan update. The two firms included K. W. Poore & Associates of Richmond, and Hill Studios of Roanoke. It was a unanimous decision of the committee that Hill Studios stood out above the other. Mr. Jackson requested approval to enter into contract negotiations with Hill Studios for the Comprehensive Plan update.

Mr. Jackson added that Hill Studios is experienced in local government, have provided services for organizations and firms within the community, and are very familiar with the Town of Abingdon.

Mr. Morgan made the motion that Town staff be authorized to enter into negotiations with Hill Studios to develop a contract for the Comprehensive Plan update. Mr. Howard seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mr. Phillips – Aye Mr. Howard – Aye
 Dr. Moore – Aye Mayor Humphreys – Aye

The motion carried.

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3. Consideration – Restructuring Planning Commission & Architectural Review Board Meeting Times. (Garrett Jackson, Planning Department)

Mr. Jackson advised that the Planning Commission and Board of Architectural Review had asked that the meeting time be adjusted to better suit their needs. The Board of Architectural Review currently meets at 1:00 P.M. on the first Wednesday of each month. Due to work conflicts, the meeting time had become difficult for some members. Their request was to change the time to 5:30 P.M.

The Planning Commission also requested that the time of their meetings be changed from 7:30 to 7:00 P.M., because their meetings sometimes run beyond 9:00 P.M.

Mr. Howard made the motion to change the meeting time of the Board of Architectural Review from 1:00 P.M. to 5:30 on the first Wednesday of the month; and to change the meeting time of the Planning Commission from 7:30 P.M. to 7:00 P.M. on the third Monday of each month. Dr. Moore seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mr. Phillips – Aye Mr. Howard – Aye
 Dr. Moore – Aye Mayor Humphreys – Aye

The motion carried.

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G. FIRST READING OF ORDINANCES

1. **FIRST READING** – Proposal to repeal and reenact: Abingdon Town Code – Chapter 62, Article III. Division 2. ***Sec. 62-76. New construction – Residential, town contracted.***

Greg Kelly, Town Attorney, advised that the matter was tabled at the last meeting. There was some concern with sub-paragraph #7 of the ordinance in that the Town would be given discretion to waive all, or a portion of the fees for Town contracted sidewalk construction.

Mr. Kelly noted that Council had requested he and the Public Works Director review the proposal. Following the review, their proposal was to amend the ordinance to reflect that the Town may, in accordance with certain administrative guidelines, waive the cost of construction. The guidelines were established, based upon need in various locations, as well as compliance with the Comprehensive Plan and Pedestrian Safety and Movement Study. Mr. Kelly asked Mr. Vernon to review the guidelines.

Mr. Vernon reviewed guidelines 1-6 of sub-paragraph 7 of Section 62-76, (attached to and made a part of these minutes) the criteria to be considered when determining if any portion, or the entire applicants fifty (50) percent share of the cost for construction of a sidewalk should be waived.

Mr. Phillips noted that the Pedestrian Safety and Movement Study, and the Comprehensive Plan are updated from time to time. He suggested that “*as updated from time to time*” be added to #2 and #6 of the guidelines. Mr. Vernon replied that he would do so.

Dr. Moore made the motion to repeal and reenact, on first reading, of the Abingdon Town Code – Chapter 62, Article III. Division 2. ***Sec. 62-76. New Construction-Residential, town contracted.*** Mr. Morgan seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mr. Phillips – Aye Mr. Howard – Aye
 Dr. Moore – Aye Mayor Humphreys – Aye

The motion carried.

Dr. Moore made the motion to approve the Administrative Guidelines/Policy as presented for use with Section ***62-76 New Construction – Residential, town contracted,*** paragraph (7), noting the addition of “*as updated from time to time*” be added to #2 and #6 of the guidelines. Mr. Howard seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mr. Phillips – Aye Mr. Howard – Aye
 Dr. Moore – Aye Mayor Humphreys – Aye

The motion carried.

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2. **FIRST READING** – AN ORDINANCE TO PROVIDE FOR THE IMPLEMENTATION OF THE 2004-2005 CHANGES TO THE PERSONAL PROPERTY TAX RELIEF ACT OF 1998 SPECIFIC RELIEF. (***Ordinance No. 2-2005***)

Mr. Kelly advised that in accordance with the 1998 Tax Relief Act, by the end of this year the Town must have enacted an ordinance setting forth its position regarding changes to the act. Fred Parker, Washington County Treasurer, had advised that it would be to the advantage of the Town to follow the same ordinance as that of the County. Mr. Kelly asked Mark Godbey, Finance Director, to respond.

Mr. Godbey advised that the ordinance is actually a method of calculation. Legislature has appropriated a block grant for next year in the amount of \$950 million. The Town will receive a portion of that, based on one of two methods of calculation. One is somewhat complicated; however, the one proposed is much simpler and follows the current process for personal property tax relief.

Mr. Phillips made the motion to adopt, on first reading, AN ORDINANCE TO PROVIDE FOR THE IMPLEMENTATION OF THE 2004-2005 CHANGES TO THE PERSONAL PROPERTY TAX RELIEF ACT OF 1998 SPECIFIC RELIEF (***Ordinance No. 2-2005***). Mr. Morgan seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mr. Phillips – Aye Mr. Howard – Aye
 Dr. Moore – Aye Mayor Humphreys – Aye

The motion carried.

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I. MISCELLANEOUS BUSINESS AND COMMUNICATIONS

1. Consideration – Request for Sponsorship for the Twenty-fourth Annual Seminar.
(Southwest Virginia Training Consortium)

Mr. Morgan noted that the Town had made a contribution of \$1,000 for the last few years in support of the project; which is a seminar on older persons that is held annually at the Southwest Virginia Higher Education Center. He added that it is an excellent project.

Mr. Morgan made the motion to contribute \$1,000 to the Southwest Virginia Training consortium for the purposes outlined in the memorandum. Mr. Phillips seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mr. Phillips – Aye Mr. Howard – Aye
 Dr. Moore – Aye Mayor Humphreys – Aye

The motion carried.

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2. Presentation – Appalachian Ghost Walks. (Stacey Allen McGee)

Stacey Allen McGee, founder and director of The Alternate Realities Center, advised that the purpose of his company is to study paranormal phenomenon. After receiving certifications in the travel and tourism industry, Mr. McGee became intrigued when hearing reports of haunted buildings in the area. Due to his combined interests, Mr. McGee established Appalachian GhostWalks. He conducts walking tours in Abingdon, Virginia; Jonesboro and Erwin, Tennessee.

Mr. McGee noted that following investigations of the Barter Theatre, Tavern Restaurant, and Martha Washington Inn, he found that the Town does have resident ghosts. He presented a Certificate of Authentication to Mayor Humphreys, whereas it was determined by recent scientific investigations, the affirmation of the presences.

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3. Appointments

a. Tourism Advisory Board – Michael Wartella, 3-year term expired 11/4/2005

Mr. Morgan made the motion to appoint Michael Wartella to the Tourism Advisory Board for a 3-year term to expire 11/4/2008. Mr. Howard seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mr. Phillips – Aye Mr. Howard – Aye
 Dr. Moore – Aye Mayor Humphreys – Aye

The motion carried.

b. Abingdon Redevelopment & housing Authority –
Bruce Mathews, 4-year term expired 11/5/2005

Mr. Phillips made the motion to appoint Bruce Mathews to the Abingdon Redevelopment & Housing Authority for a 4-year term to expire 11/5/2009. Dr. Moore seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mr. Phillips – Aye Mr. Howard – Aye
 Dr. Moore – Aye Mayor Humphreys – Aye

The motion carried.

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J. MATTERS NOT UPON THE AGENDA

1. Garrett Jackson advised that at approximately 2:30 P.M. that day, a Petition for Appeal was submitted, pursuant to Section 8-12-2 of the Town of Abingdon Zoning Ordinance. The following was signed by thirty-one residents: *The undersigned citizens of the Town of Abingdon, each of whom is registered to vote in the Town, hereby indicate their intention to appeal the decision of the Board of Architectural Review rendered on November 2, 2005, to grant a Certificate of Appropriateness to the Barter Theatre or associated legal entity, to continue its work on the Barter Green.*
(copy attached to and made a part of these minutes)

Mr. Jackson noted that Section 8-12-2 of the Zoning Ordinance does provide the right to appeal on approval of application. Upon receipt of such petition, the Town Manager shall schedule a public hearing before the Town Council.

Discussion included the timeframe and requirements regarding the advertisement for notice of a public hearing, pursuant to Section 8-12-2 of the Zoning Ordinance.

Ken Russell, Town resident and member of the Board of Trustees of Barter Theatre, advised, "The motion was unopposed at the recent Board of Architectural Review meeting. Therefore, Barter does not believe it is appropriate for the motion to be appealed to Council. There has to be an opponent for there to be an appeal". Mr. Russell requested that the above be noted as Barter's position for the record. He requested that the Town Attorney comment on the matter.

Mr. Kelly replied that the ordinance states the opponents to the granting of an application for the certificate of appropriateness. He didn't think that necessarily implies that somebody has to be present and opposed at that time. He thought the petitioners had followed the proper procedure to appeal, in accordance with the ordinance.

Mr. Russell replied that was not the way the Barter representatives had interpreted the statute.

Mr. Morgan made the motion that a public hearing be held on November 7, 2005 at 7:30 P.M. in the Council Chambers regarding the appeal of the Certificate of Appropriateness issued to Barter Theatre by the Board of Architectural Review on November 2, 2005. Mr. Howard seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mr. Phillips – Aye Mr. Howard – Aye
 Dr. Moore - Aye Mayor Humphreys – Aye

The motion carried.

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2. Mr. Phillips made the following suggestions:

a) That Council views the property located in Damascus that is adjacent to the Virginia Creeper Trail, and to request the Parks and Recreation Department to provide a cost estimate for operation and maintenance of a park at that location.

b) That Council arranges to visit Tamarack for the purpose of discussing the overall management of that facility with their manager. He felt that information would be helpful regarding the proposed Artisan's Center.

The Town Manager noted that a member of the Damascus Town Council had advised that the property located adjacent to the Creeper Trail was not a dead issue. Mr. Phillips replied, since that is the situation, he sees no reason to view the property at the present time.

Dr. Moore advised that during a recent visit to Tamarack he had met with the General Manager. He had discussed with her the possibility of meeting with Council members and others who were interested in the proposed Artisan's Center.

Following a discussion of dates and times, it was the consensus to request a meeting on November 26 at 2:00 P.M. Dr. Moore will contact the Tamarack Manager to schedule the meeting.

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3. Dr. Moore expressed concerns regarding the proposed price increases for electricity, gas, and oil during the upcoming winter months. He felt the increased prices to provide heat would be a big problem for a lot of people. He requested that information be obtained from those who provide fuel assistance programs. That would enable the Town to give some consideration for a contribution.

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4. Mayor Humphreys announced that a memorial service will be held at Veterans Memorial Park on November 11 at 10:00 A.M. She added that she will resign from the Virginia Highlands Small Business Incubator Board on December 1, 2005, to become effective on January 1, 2006.

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5. Mr. Phillips reviewed a letter from C. M. Vernon, Jr., of October 14, 2005 wherein Mr. Vernon relinquished his duties as Acting Town Manager.

Mr. Morgan made the motion to accept the letter of C. M. Vernon, Jr. dated October 14, 2005, wherein he officially relinquished his duties of acting Town Manager, effective that date, upon the return of G. M. Newman from his absence due to medical disability and upon Mr. Newman's resumption of his position as Town Manager on that same date; and further that Mr. Vernon's letter be made a part of the minutes of the current meeting, and a thank you to Mr. Vernon for his services and all Town staff who were very cooperative and helpful. Mr. Howard seconded the motion.

The roll call vote was:	Mr. Morgan – Aye	Mr. Phillips – Aye	Mr. Howard – Aye
	Dr. Moore – Aye	Mayor Humphreys – Aye	

The motion carried.

With no further business the meeting adjourned at 8:30 P.M.

Lois H. Humphreys, Mayor

Linda F. Wilson, Clerk